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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,195	01/14/2002	Moises E. Robinson	X-975 US	5065
24309	7590	06/07/2006	EXAMINER	
XILINX, INC ATTN: LEGAL DEPARTMENT 2100 LOGIC DR SAN JOSE, CA 95124				COFFY, EMMANUEL
			ART UNIT	PAPER NUMBER
			2157	

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action Before the Filing of an Appeal Brief</b>	Application No.	Applicant(s)
	10/047,195	ROBINSON ET AL.
	Examiner Emmanuel Coffy	Art Unit 2157

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1.  The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a)  The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2.  The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a)  They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b)  They raise the issue of new matter (see NOTE below);  
 (c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d)  They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4.  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.

6.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.

12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_

13.  Other: See Continuation Sheet.

Continuation of 11. does NOT place the application in condition for allowance because: Applicants fail to distinguish their invention with respect to the cited art with such clarity as required by 37 C.F.R. §1.111 (c). Feuerstraeter teaches: "In accordance with the present invention, the receiving device may use these and other errors to determine that the interconnecting cable does not provide a reliable means for communicating at the selected protocol rate the network device will cause a renegotiation of the protocol to a protocol which may be supported over the communication link" col. 8, lines 12-15. However, Applicants asserted that Feuerstraeter seems to require selection of a transmission convention after data transmission, which is in contradistinction to Applicants' 1. See remarks page 25, 2nd full paragraph, last sentence. Applicants clearly misapprehend Feuerstraeter. It refers to the failure of interconnecting cable to provide a reliable means of communication because of its characteristics (see col. 7, 57-60). Interconnecting cable constitute a transmission path between two entities and category 3 type cable has specific transmission characteristics. However, Applicants allege that Feuerstraeter is not shown to teach the use of determined transmission characteristics of a transmission path between a transmitting entity and a target entity in order to select a transmission convention prior to data transmission as is required by Applicants' claim 1. See remarks page 25 1st full paragraph; page 28, 3rd full paragraph, last sentence. Applicants further allege that Feuerstraeter fails to teach an apparatus and a method for establishing a transmission by "determining [a] number of transmission resources [that are] based on the bandwidth of the data transmission and a transmission convention," e.g. 694 of Fig 37 and [accessing the number of transmission resources to transmit data to the target entity," e.g. 696 of Fig. 37. See remarks, page 26, 2nd paragraph. Applicants did not indicate which claim incorporates that language. Be that as it may, Applicants are directed to col. 8, lines 27-49. Applicants are reminded that the entire art is applied to the application at bar not just the cited portions. Furthermore, Applicants are reminded that the Examiner is entitled to the broadest reasonable interpretation of the claims. The Applicants always have the opportunity to amend the claims during prosecution and broad interpretation by the Examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541, 550-51 (CCPA 1969).

As stated above, 37 CFR § 1.111(c) requires applicant to "clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. .

Continuation of 13. Other: Applicants refer to a 12/21/2005 response, the record shows a 12/05/2005 response therefore the allegations in connection to that 12/21/2005 response are not addressed. Applicants . As to the "Official Notice" in view of Tanenbaum, this rejection stands as articulated in the last office action in view of above explication regarding the teachings of Feuerstraeter. With respect to Feuerstraeter and Shridar, Applicants assert that the claim language as cited by the Office Action is not sufficiently clear to consider as to the alleged specific teaching. That does not relieve Applicants of the requirement to clearly point out the patentable novelty of their invention as articulated above. Hence, the interpretation expressed in the Office Action prevails until persuasively rebutted.



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